IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	09/873,259	Confirmation No. 5965	
Applicant	:	T. TANAKA et al.	TC/GAU	: 3695
Filed	:	June 5, 2001	Examiner	: S.E. Chencinski
Title	:	METHOD AND APPARATUS FOR PROVIDING BROKER SERVICE TO AUCTIONS		
Docket No.	:	NIT-278		
Customer No.:		24956		

APPEAL BRIEF

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Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450   March 18, 2011

Sir:

This appeal is taken from the final rejection of claims 1, 3-10, and 14-20 set forth in the Final Office Action dated July 6, 2010. Appellants address the following items.

I.   REAL PARTY IN INTEREST

The Real Party in Interest in this Appeal is Hitachi, Ltd., as evidenced by the Assignment recorded on July 14, 2010 at Reel 024683 and Frame 0772.

II.   RELATED APPEALS AND INTERFERENCE

There are no related appeals or interferences that will directly affect, be directly affected by, or have a bearing on the Board's decision in this appeal.

III.   STATUS OF CLAIMS

Claim 1, 3-10, and 14-20 are currently pending. All of pending claims have been finally rejected. Accordingly, the final rejection of claims 1, 3-10, and 14-20 is being appealed.

IV.   STATUS OF AMENDMENTS

All of the previously filed amendments have been entered.

V.   SUMMARY OF THE CLAIMED SUBJECT MATTER

One aspect of the present invention according to claim 1 is directed to a method for auction brokerage service provided by a computer **{230}** that resides between an information terminal **{211}** of a user putting up an article which the user owns to be an auctioned item and a plurality of auction servers **{221}** accessed by a plurality of buyers to perform brokerage operation for auctions of the auctioned item owned by the user among the auction servers, the method comprising steps of:

selecting a plurality of information of said plurality of auction servers suitable for the user's conditions from among stored information related to said auction servers in order to obtain selected auction servers, in response to a request from said information terminal; **{Specification at page 6, line 24 to page 7, line 8; page 8, lines 14-16; page 9, lines 14-16; page 11, line 2 to page 12, line 3; Fig. 2}**

transmitting an auction registration request in the name of the user to each of the selected auction servers to receive a notification that the auctioned item owned

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by the user has been registered at the selected auction servers, the selected auction

servers auctioning the auctioned item owned by the user simultaneously to the

plurality of buyers accessing the selected auction servers; **{Specification at page**

12, line 4 to page 13, line 10; Fig. 2}

gathering trade information of how the auctioned item owned by the user has

been bid for at the selected auction servers **{Specification at page 13, line 11 to**

page 14, line 16; Fig. 5} and tendering to the other selected auction servers the

highest tendered price of the bids in the name of a substitute in order to adjust the

bid prices to the highest price over all the selected auction servers; **{Specification at**

page 15, lines 5-23; Fig. 5} and

notifying said information terminal of the auction result of the auctioned item

owned by the user and outputting the auction result. **{Specification at page 18,**

lines 12-21; Fig. 7}

Another aspect of the invention according to claim 5 is directed to a method

executed by a brokerage computer **{230}** residing between a user computer **{211}** of

an auction user putting up an article which the user owns to be an auctioned item

and auction computers **{221}** of auction organizers accessed by a plurality of buyers

to perform brokerage operation for auctions among the auction computers, the

method comprising steps of:

(a) receiving information about the auctioned item owned by the user and

specified auction organizers from the user computer; **{Specification at page 10, line**

25 to page 11, line 6; Fig. 2}

(b) sending the information about the auctioned item owned by the user in the name of the user to the auction computers of the specified auction organizers, the auction computers auctioning the auctioned item owned by the user simultaneously to the plurality of buyers accessing the specified auction organizers; **{Specification at page 12, line 4 to page 13, line 10; Fig. 2}**

(c) gathering trade information of how the auctioned item owned by the user has been bid for at the specified auction organizers; **{Specification at page 13, line 11 to page 14, line 16; Fig. 5}**

(d) tendering to the other auction computers of the specified auction organizers the highest bid price of the bid prices in the name of a substitute in order to adjust the bid prices to the highest price over all the auction computers of the specified auction organizers; **{Specification at page 15, lines 5-23; Fig. 6}** and

(e) taking an action in accordance with conditions specified by the user computer if the brokerage computer has found that there is no bid for the auctioned item owned by the user at any auction computers of the specified auction organizers by the date specified by the user including notifying said user computer of the auction result of the auctioned item owned by the user and outputting the auction result. **{Specification at page 15, line 24 to page 16, line 18; page 28, lines 12-21; Fig. 7}**

Another aspect of the invention according to claim 8 is directed to a computer **{230}** for residing between an information terminal **{211}** of a user putting up an article which the user owns to be an auctioned item and auction servers **{221}**

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accessed by a plurality of buyers to perform brokerage service for auctions of the

auctioned item owned by the user among the auction servers, said computer

comprising:

(a) means {241} for receiving information about the auctioned item owned by

the user and specified auction servers from said information terminal; {**Specification**

at page 10, line 25 to page 11, line 6; Fig. 2}

(b) means {241} for sending the information about the auctioned item owned

by the user in the name of the user to the specified auction servers, the specified

auction servers auctioning the auctioned item owned by the user simultaneously to

the plurality of buyers accessing the specified auction servers; {**Specification at**

page 12, line 4 to page 13, line 10; Fig. 2}

(c) means {243} for gathering trade information of how the auctioned item

owned by the user has been bid for at the specified auction servers; {**Specification**

at page 13, line 11 to page 14, line 16; Fig. 5}

(d) means {242} for tendering to the other specified auction servers the

highest bidding price among all bidding prices in the name of a substitute in order to

adjust the bidding prices to the highest price over all the specified auction servers;

{**Specification at page 15, lines 5-23; Fig. 6**} and

(e) means {242} for taking an action in accordance with conditions specified

by said information terminal if the computer has found that there is no bid for the

auctioned item owned by the user at any specified auction servers by the date

specified by the user including notifying said information terminal of the auction result

of the auctioned item owned by the user and outputting the auction result.

{Specification at page 15, line 24 to page 16, line 18; page 28, lines 12-21; Fig. 7}

Another aspect of the invention according to claim 14 is directed to a system which includes an information terminal **{211}** of a user putting up an article which the user owns to be an auctioned item, a plurality of auction servers **{221}** accessed by a plurality of buyers to perform brokerage service for auctions of the auctioned item owned by the user among the auction servers, and a brokerage server **{230}** connected between the information terminal and the auction servers, the brokerage server comprising:

(a) means **{241}** for receiving information about the auctioned item owned by the user and specified auction servers from said information terminal; **{Specification at page 10, line 25 to page 11, line 6; Fig. 2}**

(b) means **{241}** for sending the information about the auctioned item owned by the user in the name of the user to the specified auction servers, the specified auction servers auctioning the auctioned item owned by the user simultaneously to the plurality of buyers accessing the specified auction servers; **{Specification at page 12, line 4 to page 13, line 10; Fig. 2}**

(c) means **{243}** for gathering trade information of how the auctioned item owned by the user has been bid for at the specified auction servers; **{Specification at page 13, line 11 to page 14, line 16; Fig. 5}**

(d) means **{242}** for tendering to the other specified auction servers the highest bidding price among all bidding prices in the name of a substitute in order to adjust the bidding prices to the highest price over all the specified auction servers; **{Specification at page 15, lines 5-23; Fig. 6}** and

(e) means **{242}** for taking an action in accordance with conditions specified by said information terminal if the brokerage server has found that there is no bid for the auctioned item owned by the user at any specified auction servers by the date specified by the user including notifying said information terminal of the auction result of the auctioned item owned by the user and outputting the auction result. **{Specification at page 15, line 24 to page 16, line 18; page 28, lines 12-21; Fig. 7}**

VI.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1, 3-10, and 14-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Huberman, U.S. Pat. No. 5,826,244 in view of Kinney et al., U.S. Pat. No. 7,249,085, Shoham et al., U.S. Pat. No. 6,285,989, Odom et al., U.S. Pat. No. 6,058,379, and Koopersmith, U.S. Pub. No. 2001/0042002.

VII.   ARGUMENT

Group 1: Claims 1, 3, and 4

Claims 1, 3, and 4 stand rejected under 35 U.S.C. §103(a) as being

unpatentable over Huberman in view of Kinney, Shoham, Odom, and Koopersmith.

Applicants respectfully submit that independent claim 1 is patentable over

Huberman, Kinney, Shoham, Odom, and Koopersmith because, for instance, they do

not teach or suggest a method for auction brokerage service provided by a computer

that resides between an information terminal of a user putting up an article which the

user owns to be an auctioned item and a plurality of auction servers accessed by a

plurality of buyers to perform brokerage operation for an auction of the auctioned

item owned by the user among the auction servers, the method comprising the step

of transmitting an auction registration request in the name of the user to each of the

selected auction servers to receive a notification that the auctioned item owned by

the user has been registered at the selected auction servers, the selected auction

servers auctioning the auctioned item owned by the user simultaneously to the

plurality of buyers accessing the selected auction servers.

A.   The References Do Not Teach or Suggest a Brokerage Computer Between an

        Information Terminal or User Computer of the User and a Plurality of Auction

        Servers for Performing the Functions As Recited in the Claims

The present invention has four main elements: a computer (Brokerage Server

230), an information terminal of a user computer (Information Terminal 211), a

plurality of auction servers (Auction Servers 221-1, 221-2, 221-3), and a plurality of

buyers (Any Buyers 522). As seen in FIG.1, the Brokerage Server uses the Auction

Servers and provides a novel method of a new auction brokerage service.

None of the cited references disclose the Brokerage Server ("computer" in the

claims). Independent claims 1 and 5 each recite a method performed by the

Brokerage Server. Independent claims 8 and 14 each recite the Brokerage Server.

In contrast, Huberman has three main elements (Col. 7, lines 53-54; Col. 8,

lines 5-8; FIG. 2): Supplier Process 220 for providing services, Broker Process 230

as an auctioneer performing dealings between customers and the supplier, and

Customer Process 210 for ordering the services. The Broker Process in Huberman

is a bidder (Col. 10, lines 22-34), and corresponds to one of a plurality of auction

servers (Auction Server) in the present invention. The Supplier Process in

Huberman is an element which provides services, and corresponds to the

information terminal of the user in the present invention. The Customer Process in

Huberman is an element which buys the services, and corresponds to the plurality of

buyers in the present invention.

The Brokerage Server in the present invention is not disclosed in Huberman.

The Examiner has not pointed to any specific teaching in Huberman for the computer

(brokerage server) that resides between an information terminal of a user and

auction servers to perform brokerage operation for an auction. The other references

(Shoham, Odom, Kinney, Koopersmith) do not disclose the Brokerage Server and

hence do not cure the deficiencies of Huberman.

Furthermore, Huberman discloses a broker process 230 disposed between

customer processes 210a and supplier processes 220a. The broker process 230 "is

a process that oversees the auction and acts as auctioneer," and "can accept

document services job requests from customer processes 210 and solicit and accept

bids on such job requests from supplier processes 220, and can strike bargains

between customer processes 210 and supplier processes 220" (Col. 8, lines 5-13).

As such, the broker process 230 is similar to an auction server recited in claim 1

(auctioning the auctioned item to a plurality of buyers), **not** a computer between an

information terminal and a plurality of auction servers to perform brokerage operation

for an auction of an auctioned item among the auction servers. Thus, Huberman

does not disclose the structure of the auction brokerage service as recited in claim 1.

Nor does Huberman teach or suggest the method for auction brokerage

service provided by the computer of claim 1 which resides between the information

terminal and the plurality of auction servers. Claim 1 recites method steps for

auction brokerage service performed by a computer between an information terminal

and a plurality of auction servers. The computer is not an auctioneer, unlike the

broker process 230 in Huberman, which itself characterizes the broker process 230

as an auctioneer.

For example, the broker process 230 in Huberman does not select information

of the auction servers because the broker process 230 itself is essentially an auction

server and it does not interact with a plurality of auction servers (i.e., broker

processes) to perform brokerage service as recited in claim 1. Instead, the broker

process 230 interfaces with customer processes 210 submitting job requests and

with supplier processes 220a providing bids on the job requests. Furthermore, the

broker process 230 does not transmit an auction registration request to auction

servers (i.e., broker processes), and it does not gather trade information at selected

auction servers (i.e., broker processes).

B.   The References Do Not Teach or Suggest Simultaneous Auctions by Multiple

        Auction Servers of an Auctioned Item Owned by the User

        One aspect of the present invention is to perform simultaneously auctions of a

single private article which the use owns at a plurality of auction sites. In contrast,

the Process in Huberman, as an auctioneer, performs dealings between the

Customer Process and the Supplier Process (Col. 7, lines 53-54; Col. 8, lines 5-8).

As shown clearly in FIG. 2, Huberman discloses an auction performed by only one

auctioneer (only one auction site). Thus, Huberman relates to an auction

mechanism between the customer and the supplier via a network (Col. 19, lines 16-

18).

        Huberman discloses, as an auction example of Huberman, an auction that

many customers request simultaneously different services (many customers put up

simultaneously different commodities). This is multiple auctions performing many

different auctions (Col. 18, lines 27-50). The subject of this auction process is the

Broker Process. The auction is performed at one auction site. Huberman merely

discloses that there are many different auctions in each auction site. Huberman

does not disclose a technique using a plurality of auction sites simultaneously.

Hence, Huberman does not teach or suggest this aspect of the claimed invention.

Shoham discloses that the application 210 supports multiple auctions simultaneously (Col. 12, lines 27-29). The transaction monitor 410 included in the application 210 executes corresponding services (General Services 420 or Market Specific Services 430) in response to receiving a lot of auction requests from clients (Col. 12 , lines 27-65). These processes are performed in only one system (a universal auction specification system). Shoham does not disclose a technique using a plurality of auction sites simultaneously. Thus, it does not cure the deficiencies of Huberman.

The Examiner cites Odom for disclosing multiple concurrent auctions, and asserts that the trading of SEC listed stocks is similar to the claimed invention. **{Final Office Action of July 6, 2010, at page 3, line 28 to page 4, line 2}** However, the trading of stocks involves multiple items that are not an "item owned by the user." As described throughout the present application, the item being auctioned via multiple auction servers is an item owned by the user, which is different from stocks.

Odom discloses that a server (exchange provider 100) performs an exchange processing by 8 steps (Col. 3, lines 13-15; Col. 4, lines 15-24). The exchange processor 120 included in the exchange provider 100 performs the exchange processing (Col. 4, lines 44-45). Odom discloses a technique performing the exchange processing in one server (exchange provider 100). In Odom, the multiple concurrent auctions process is described in the step 820 (Col. 10, line 10). The step 820 shows an auction phase in an electronic auction which emulates real-world

auctions' functions and abilities (Col. 9, lines 57-61; Col. 10, lines 8-10). This

electronic auction is the exchange processing performed by the server (exchange

provider 100) disclosed in Odom. The multiple concurrent auctions process

disclosed in Odom is the exchange processing performed by only one server

(exchange provider 100). The multiple concurrent auctions process disclosed in

Odom is an auction processing performed at each auction site. However, since

Odom does not disclose a technique using a plurality of auction sites simultaneously,

Odom does not cure the deficiencies of Huberman.

In Odom, as an example embodiment, there is a description relating to trading

of Securities and Exchange Commission listed stocks (Col. 10, line 37 to Col. 11, line

9). In the system of the example embodiment, a buyer and a seller make directly to

buy and to sell. In response to offering to buy or sell, the system checks existence of

a matching offer (buy or sell). When being matched in same stock and same price,

the system completes the dealing. The example embodiment in Odom discloses

processing in only one exchange system. It is not a technique using a plurality of

exchange sites. Hence, Odom does not disclose the claimed invention.

In the coal auction of Kinney, the problem is that it is difficult to evaluate the

coal because of variable quality of coal. In order to solve the problem, Kinney

transforms multi-parameter bids of the coal into comparative bids to enable each

bidder to view a comparison of the bids (Abstract, Summary of The Invention). This

transformation is processed in one auction site. Thus, Kinney does not disclose the

present invention which uses the plurality of auction sites and gathers auction results

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of the commodity from the plurality of auction sites.

Koopersmith relates to e-commerce and discloses that a customer searches suppliers via Internet to buy a desired toaster. The search technique of Koopersmith does not relate to the present invention. In the present invention, a user puts up a private article to be auctioned to the plurality of auction sites simultaneously. The auction sites to be put up are selected from the plurality of auction site information 261 stored in the auction site information file 260 in the Brokerage Server 230. **{Specification at page 6, lines 8-19}** Known auction sites include eBay, Yahoo!, etc. The present invention has previously stored information relating these auction sites into the auction site information file 260. Therefore, the user need not search an auction site via the Internet in order to put up the private article.

Kinney, Shoham, Odom, and Koopersmith do not cure the deficiencies of Huberman for the reasons discussed above. The references do not teach or suggest simultaneous auctions by multiple auction servers of an auctioned item owned by the user. The references implicitly <u>teach away</u> from the selection of auction servers suitable for the user's conditions.

C.   <u>The References Do Not Teach or Suggest Selection of Auction Servers</u>
       <u>Suitable for the User's Conditions by the Brokerage Computer</u>

The Examiner alleges that the selection of auction servers suitable for the user's conditions is implicit in Kinney, Shoham, and Odom. **{Final Office Action of July 6, 2010, at page 4, lines 9-11}** However, Kinney, Shoham, and Odom each disclose auction processing in a <u>single</u> auction site. The teaching of auction

processing in a single auction site not only fails to implicitly disclose the selection of auction servers (i.e., auction sites) suitable for the user's conditions, but <u>teaches away</u> from the selection of auction servers.

D.   The Examiner's Assertion that Gathering Trade Information and Tendering the Highest Tendered Price I the Name of a Substitute was Well Known As an Option of Changing an Offer Price is Flawed

Claim 1 recites "gathering trade information of how the unique item has been bid for at the selected auction servers and tendering to the other selected auction servers the highest tendered price of the bids in the name of a substitute in order to adjust the bid prices to the highest price over all the selected auction servers." The Final Office Action of July 6, 2010, at page 5, lines 14-27, acknowledges that none of the references explicitly discloses this limitation. The rejection is made on the ground of the following assertion: "The option of changing an offer price such as the minimum acceptable price in an auction was well known at the time of Applicant's invention." **{Final Office Action of July 6, 2010, at page 5, lines 23-25}** The assertion is not applicable to the claim limitation at issue. The specification discloses two distinct ways to "avoid a problem in which the identical commodity might be knocked down at plural different prices." **{Specification at page 15, lines 22-23}** According to the first approach, "the auction site monitoring section 242 may place tenders with the highest tendered price to the other auction sites in the name of a substitute" **{Specification at page 15, lines 13-16}** In the second approach, "it may alter the lower limit of the desired price of such commodity into the highest tendered

price in the name of the user" **{Specification at page 15, lines 17-20}** Claim 1

recites a limitation directed to the first approach. The rejection, however, is based on

the second approach, which Applicant does not claim. On the issue of patentability,

a known second approach cannot form the basis for rejecting a claim that recites the

first approach which is distinct from the second approach.

Furthermore, Applicants note that the claim term "tendering" by dictionary

definition means "presenting an offer for acceptance," which is distinct from altering

the lower limit of the desired price. That is, the act of "tendering" as claimed is

different from the act of "altering the lower limit of the desired price" as suggested by

the Examiner. One is not implicit of the other.

For at least the foregoing reasons, claim 1, and claims 3 and 4 depending

therefrom, are patentable.

Group 2: Claim 17

Claim 17 depends from claim 1, and is patentable over Huberman, Kinney,

Shoham, Odom, and Koopersmith not only due to its dependency from claim 1 but

also because it further recites that the selected auction servers are other brokerage

computers each of which accepts a request for processing for the auctioned item

owned by the user from a corresponding information terminal of another user.

As discussed above in connection with claim 1, the references do not teach or

suggest simultaneous auctions by multiple auction servers of an auctioned item

owned by the user. The references implicitly teach away from the selection of

auction servers suitable for the user's conditions. More specifically, Kinney,

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Shoham, and Odom each disclose auction processing in a single auction site. The

teaching of auction processing in a single auction site not only fails to implicitly

disclose the selection of auction servers (i.e., auction sites) suitable for the user's

conditions, but teaches away from the selection of auction servers.

The Examiner cites Odom at column 10, line 10, and at column 10, line 37 to

column 11, line 9 for allegedly disclosing the feature of claim 17. **{Final Office**

Action of July 6, 2010, at page 7, lines 18-21} However, Odom at column 10, line

10 merely states that "there are multiple concurrent auctions." Odom at column 10,

line 37 to column 11, line 9 merely states that "individuals acting as an individual,

broker, or broker/dealer may buy or sell registered shares of stock without using a

brokerage firm as an intermediary. Brokerless refers to the fact that participants are

trading directly with other participants without brokerage firm or other third party

assistance." In essence, Odom discloses a system without brokerage computers.

This clearly **teaches away** from the feature that the selected auction servers are

other brokerage computers each of which accepts a request for processing for the

auctioned item owned by the user from a corresponding information terminal of

another user.

Group 3: Claims 5-7

Claims 5-7 stand rejected under 35 U.S.C. §103(a) as being unpatentable

over Huberman in view of Kinney, Shoham, Odom, and Koopersmith.

Applicants respectfully submit that independent claim 5 as is patentable over

Huberman, Kinney, Shoham, Odom, and Koopersmith because, for instance, they do

not teach or suggest a method executed by a brokerage computer residing between

a user computer of an auction user putting up an article which the user owns to be

an auctioned item and auction computers of auction organizers accessed by a

plurality of buyers to perform brokerage operation for auctions among the auction

computers, the method comprising sending the information about the auctioned item

owned by the user in the name of the user to the auction computers of the specified

auction organizers, the auction computers auctioning the auctioned item owned by

the user simultaneously to the plurality of buyers accessing the specified auction

organizers.

As discussed above in connection with claim 1, the trading of stocks in Odem

involves multiple items that are a private item owned by the user. Furthermore,

Huberman does not disclose the structure of the auction brokerage operation as

recited in claim 5. Nor does Huberman teach or suggest the method for auction

brokerage operation provided by the brokerage computer of claim 5 which resides

between the user computer and the plurality of auction computers. Claim 5 recites

method steps for auction brokerage operation performed by a brokerage computer

between a user computer and a plurality of auction computers. The brokerage

computer is <u>not</u> an auctioneer, unlike the broker process 230 in Huberman, which

itself characterizes the broker process 230 as an auctioneer. For example, the

broker process 230 in Huberman does not send the information about the auctioned

item in the name of the user to the auction computers of the specified auction

organizers because the broker process 230 itself is essentially an auction computer

and it does not interact with a plurality of auction computers (i.e., broker processes) to perform brokerage service as recited in claim 5. Instead, the broker process 230 interfaces with customer processes 210 submitting job requests and with supplier processes 220a providing bids on the job requests. Moreover, the gathering and tendering are neither taught in the cited art nor implicit in any way, as discussed above in connection with claim 1. Kinney, Shoham, Odom, and Koopersmith do not cure the deficiencies of Huberman for the reasons discussed above.

For at least the foregoing reasons, claim 5, and claims 6 and 7 depending therefrom, are patentable.

Group 4: Claim 18

Claim 18 depends from claim 5, and is patentable over Huberman, Kinney, Shoham, Odom, and Koopersmith not only due to its dependency from claim 5 but also because it further recites that the auction computers are other brokerage computers of the specified auction organizers, each of said other brokerage computers accepting a request for processing for the auctioned item owned by the user from a corresponding user computer of another user.

As discussed above in connection with claim 17, the references do not teach or suggest simultaneous auctions by multiple auction servers/computers of an auctioned item owned by the user. The references implicitly teach away from the selection of auction servers suitable for the user's conditions. More specifically, Kinney, Shoham, and Odom each disclose auction processing in a single auction site. The teaching of auction processing in a single auction site not only fails to

implicitly disclose the selection of auction servers (i.e., auction sites) suitable for the

user's conditions, but <u>teaches away</u> from the selection of auction servers.

Furthermore, Odom at column 10, line 37 to column 11, line 9 merely states that

"individuals acting as an individual, broker, or broker/dealer may buy or sell

registered shares of stock without using a brokerage firm as an intermediary.

Brokerless refers to the fact that participants are trading directly with other

participants without brokerage firm or other third party assistance." In essence,

Odom discloses a system without brokerage computers. This clearly **teaches away**

from the feature that the auction computers are other brokerage computers of the

specified auction organizers, each of said other brokerage computers accepting a

request for processing for the auctioned item owned by the user from a

corresponding user computer of another user.

Group 5: Claims 8-10

Claims 8-10 stand rejected under 35 U.S.C. §103(a) as being unpatentable

over Huberman in view of Kinney, Shoham, Odom, and Koopersmith.

Applicants respectfully submit that independent claim 8 is patentable over

Huberman, Kinney, Shoham, Odom, and Koopersmith because, for instance, they do

not teach or suggest a computer for residing between an information terminal of a

user putting up an article which the user owns to be an auctioned item and auction

servers accessed by a plurality of buyers to perform brokerage service for an auction

of the auctioned item among the auction servers, the computer comprising means for

sending the information about the auctioned item owned by the user in the name of

the user to the specified auction servers, the specified auction servers auctioning the

auctioned item owned by the user simultaneously to the plurality of buyers accessing

the specified auction servers.

As discussed above in connection with claim 1, the trading of stocks in Odem

involves multiple items that are not an item owned by the user. As described

throughout the present application, the item being auctioned via multiple auction

servers is a private item owned by the user, which is different from stocks. In

addition, Huberman does not disclose the computer of the auction brokerage service

as recited in claim 8. The computer of claim 8 is <u>not</u> an auctioneer, unlike the broker

process 230 in Huberman, which itself characterizes the broker process 230 as an

auctioneer. The computer of claim 8 includes various means not taught or

suggested for the broker process 230 in Huberman. Moreover, the gathering and

tendering are neither taught in the cited art nor implicit in any way, as discussed

above in connection with claim 1. Kinney, Shoham, Odom, and Koopersmith do not

cure the deficiencies of Huberman for the reasons discussed above.

For at least the foregoing reasons, claim8, and claims 9 and 10 depending

therefrom, are patentable.

Group 6: Claim 19

Claim 19 depends from claim 8, and is patentable over Huberman, Kinney,

Shoham, Odom, and Koopersmith not only due to its dependency from claim 8 but

also because it further recites that the specified auction servers are other brokerage

computers each of which accepts a request for processing for the auctioned item

owned by the user from a corresponding information terminal of another user.

As discussed above in connection with claim 17, the references do not teach

or suggest simultaneous auctions by multiple auction servers/computers of an

auctioned item owned by the user. The references implicitly <u>teach away</u> from the

selection of auction servers suitable for the user's conditions. More specifically,

Kinney, Shoham, and Odom each disclose auction processing in a <u>single</u> auction

site. The teaching of auction processing in a single auction site not only fails to

implicitly disclose the selection of auction servers (i.e., auction sites) suitable for the

user's conditions, but <u>teaches away</u> from the selection of auction servers.

Furthermore, Odom at column 10, line 37 to column 11, line 9 merely states that

"individuals acting as an individual, broker, or broker/dealer may buy or sell

registered shares of stock without using a brokerage firm as an intermediary.

Brokerless refers to the fact that participants are trading directly with other

participants without brokerage firm or other third party assistance." In essence,

Odom discloses a system without brokerage computers. This clearly **<u>teaches away</u>**

from the feature that the specified auction servers are other brokerage computers

each of which accepts a request for processing for the auctioned item owned by the

user from a corresponding information terminal of another user.

Group 7: Claims 14-16

Claims 14-16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Huberman in view of Kinney, Shoham, Odom, and Koopersmith.

Applicants respectfully submit that independent claim 14 is patentable over Huberman, Kinney, Shoham, Odom, and Koopersmith because, for instance, they do not teach or suggest a system which includes an information terminal of a user putting up an article which the user owns to be an auctioned item, a plurality of auction servers accessed by a plurality of buyers to perform brokerage service for auctions of the auctioned item owned by the user among the auction servers, and a brokerage server connected between the information terminal and the auction servers, the brokerage server comprising means for sending the information about the auctioned item owned by the user in the name of the user to the auction computers of the specified auction organizers, the auction computers auctioning the auctioned item owned by the user simultaneously to the plurality of buyers accessing the specified auction organizers.

Clearly, none of the references disclose or suggest a system including an information terminal, a plurality of auction servers, and a brokerage server connected between the information terminal and the auction servers. Moreover, as discussed above in connection with claims 1 and 8, the trading of stocks in Odem involves multiple items that are not an item owned by the user. As described throughout the present application, the item being auctioned via multiple auction servers is a private item owned by the user, which is different from stocks. In addition, Huberman does

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not disclose the computer of the auction brokerage service as recited in claim 14.

The computer of claim 14 is <u>not</u> an auctioneer, unlike the broker process 230 in

Huberman, which itself characterizes the broker process 230 as an auctioneer. The

computer of claim 14 includes various means not taught or suggested for the broker

process 230 in Huberman. Moreover, the gathering and tendering are neither taught

in the cited art nor implicit in any way, as discussed above in connection with claim 1.

Kinney, Shoham, Odom, and Koopersmith do not cure the deficiencies of Huberman

for the reasons discussed above.

For at least the foregoing reasons, claim 14, and claims 15 and 16 depending

therefrom, are patentable.

Group 8: Claim 20

Claim 20 depends from claim 14, and is patentable over Huberman, Kinney,

Shoham, Odom, and Koopersmith not only due to its dependency from claim 14 but

also because it further recites that the specified auction servers are other brokerage

servers each of which accepts a request for processing for the auctioned item owned

by the user from a corresponding information terminal of another user.

As discussed above in connection with claim 17, the references do not teach

or suggest simultaneous auctions by multiple auction servers/computers of an

auctioned item owned by the user. The references implicitly <u>teach away</u> from the

selection of auction servers suitable for the user's conditions. More specifically,

Kinney, Shoham, and Odom each disclose auction processing in a <u>single</u> auction

site. The teaching of auction processing in a single auction site not only fails to

implicitly disclose the selection of auction servers (i.e., auction sites) suitable for the

user's conditions, but <u>teaches away</u> from the selection of auction servers.

Furthermore, Odom at column 10, line 37 to column 11, line 9 merely states that

"individuals acting as an individual, broker, or broker/dealer may buy or sell

registered shares of stock without using a brokerage firm as an intermediary.

Brokerless refers to the fact that participants are trading directly with other

participants without brokerage firm or other third party assistance." In essence,

Odom discloses a system without brokerage computers. This clearly **teaches away**

from the feature that the specified auction servers are other brokerage servers each

of which accepts a request for processing for the auctioned item owned by the user

from a corresponding information terminal of another user.

VIII.   CLAIMS APPENDIX

1. (previously presented) A method for auction brokerage service provided by a computer that resides between an information terminal of a user putting up an article which the user owns to be an auctioned item and a plurality of auction servers accessed by a plurality of buyers to perform brokerage operation for auctions of the auctioned item owned by the user among the auction servers, the method comprising steps of:

selecting a plurality of information of said plurality of auction servers suitable for the user's conditions from among stored information related to said auction servers in order to obtain selected auction servers, in response to a request from said information terminal;

transmitting an auction registration request in the name of the user to each of the selected auction servers to receive a notification that the auctioned item owned by the user has been registered at the selected auction servers, the selected auction servers auctioning the auctioned item owned by the user simultaneously to the plurality of buyers accessing the selected auction servers;

gathering trade information of how the auctioned item owned by the user has been bid for at the selected auction servers and tendering to the other selected auction servers the highest tendered price of the bids in the name of a substitute in order to adjust the bid prices to the highest price over all the selected auction servers; and

notifying said information terminal of the auction result of the auctioned item

owned by the user and outputting the auction result.

    2. (canceled)

    3. (previously presented) The method for auction brokerage service as claimed in claim 1, further comprising a step of requesting the selected auction servers to alter the desired price specified by the user according to the user's instruction when the computer has found that there is no bid for the auctioned item owned by the user at the selected auction servers by the date specified by the user.

    4. (previously presented) The method for auction brokerage service as claimed in claim 1, further comprising a step of notifying the other selected auction servers of canceling the registration of the auctioned item owned by the user by a selected auction server with which the trade has concluded.

    5. (previously presented) A method executed by a brokerage computer residing between a user computer of an auction user putting up an article which the user owns to be an auctioned item and auction computers of auction organizers accessed by a plurality of buyers to perform brokerage operation for auctions among the auction computers, the method comprising steps of:

    (a) receiving information about the auctioned item owned by the user and specified auction organizers from the user computer;

(b) sending the information about the auctioned item owned by the user in the name of the user to the auction computers of the specified auction organizers, the auction computers auctioning the auctioned item owned by the user simultaneously to the plurality of buyers accessing the specified auction organizers;

(c) gathering trade information of how the auctioned item owned by the user has been bid for at the specified auction organizers;

(d) tendering to the other auction computers of the specified auction organizers the highest bid price of the bid prices in the name of a substitute in order to adjust the bid prices to the highest price over all the auction computers of the specified auction organizers; and

(e) taking an action in accordance with conditions specified by the user computer if the brokerage computer has found that there is no bid for the auctioned item owned by the user at any auction computers of the specified auction organizers by the date specified by the user including notifying said user computer of the auction result of the auctioned item owned by the user and outputting the auction result.

6. (previously presented) The method for auction brokerage service as claimed in claim 5, further comprising a step of requesting the auction organizers to alter the desired price specified by the auction user according to the instruction of the auction user if no bid has been found by the specified date.

7. (previously presented) The method for auction brokerage service as claimed in claim 5, further comprising a step of notifying the other specified auction organizers of canceling the registration of the auctioned item owned by the user by a specified auction organizer with which the trade has concluded.

8. (previously presented) A computer for residing between an information terminal of a user putting up an article which the user owns to be an auctioned item and auction servers accessed by a plurality of buyers to perform brokerage service for auctions of the auctioned item owned by the user among the auction servers, said computer comprising:

(a) means for receiving information about the auctioned item owned by the user and specified auction servers from said information terminal;

(b) means for sending the information about the auctioned item owned by the user in the name of the user to the specified auction servers, the specified auction servers auctioning the auctioned item owned by the user simultaneously to the plurality of buyers accessing the specified auction servers;

(c) means for gathering trade information of how the auctioned item owned by the user has been bid for at the specified auction servers;

(d) means for tendering to the other specified auction servers the highest bidding price among all bidding prices in the name of a substitute in order to adjust the bidding prices to the highest price over all the specified auction servers; and

(e) means for taking an action in accordance with conditions specified by said

information terminal if the computer has found that there is no bid for the auctioned

item owned by the user at any specified auction servers by the date specified by the

user including notifying said information terminal of the auction result of the

auctioned item owned by the user and outputting the auction result.

9. (previously presented) The computer as claimed in claim 8, wherein said

means for taking the specified action further comprises means for requesting the

auction servers to alter the desired price specified by the user according to an

instruction of the user if no bid has been found by the specified date.

10. (previously presented) The computer as claimed in claim 8, further

comprising means for notifying the other specified auction servers of canceling the

registration of the auctioned item owned by the user by a specified auction server

with which the trade has concluded.

11.-13. (canceled)

14. (previously presented) A system which includes an information terminal

of a user putting up an article which the user owns to be an auctioned item, a

plurality of auction servers accessed by a plurality of buyers to perform brokerage

service for auctions of the auctioned item owned by the user among the auction

servers, and a brokerage server connected between the information terminal and the

auction servers, the brokerage server comprising:

(a) means for receiving information about the auctioned item owned by the user and specified auction servers from said information terminal;

(b) means for sending the information about the auctioned item owned by the user in the name of the user to the specified auction servers, the specified auction servers auctioning the auctioned item owned by the user simultaneously to the plurality of buyers accessing the specified auction servers;

(c) means for gathering trade information of how the auctioned item owned by the user has been bid for at the specified auction servers;

(d) means for tendering to the other specified auction servers the highest bidding price among all bidding prices in the name of a substitute in order to adjust the bidding prices to the highest price over all the specified auction servers; and

(e) means for taking an action in accordance with conditions specified by said information terminal if the brokerage server has found that there is no bid for the auctioned item owned by the user at any specified auction servers by the date specified by the user including notifying said information terminal of the auction result of the auctioned item owned by the user and outputting the auction result.

15. (previously presented) The system as claimed in claim 14, wherein the brokerage server further comprises means for requesting the auction organizers to alter the desired price specified by the auction user according to the instruction of the auction user if no bid has been found by the specified date.

16. (previously presented) The system as claimed in claim 14, wherein the brokerage server further comprises means for notifying the other specified auction organizers of canceling the registration of the auctioned item owned by the user by a specified auction organizer with which the trade has concluded.

17. (previously presented) The method for auction brokerage service as claimed in claim 1, wherein said selected auction servers are other brokerage computers each of which accepts a request for processing for the auctioned item owned by the user from a corresponding information terminal of another user.

18. (previously presented) The method for auction brokerage service as claimed in claim 5, wherein said auction computers are other brokerage computers of the specified auction organizers, each of said other brokerage computers accepting a request for processing for the auctioned item owned by the user from a corresponding user computer of another user.

19. (previously presented) The computer as claimed in claim 8, wherein said specified auction servers are other brokerage computers each of which accepts a request for processing for the auctioned item owned by the user from a corresponding information terminal of another user.

20. (previously presented) The system as claimed in claim 14, wherein said

specified auction servers are other brokerage servers each of which accepts a

request for processing for the auctioned item owned by the user from a

corresponding information terminal of another user.

IX.   EVIDENCE APPENDIX

EVIDENCE APPENDIX A

None.

X.   RELATED PROCEEDINGS APPENDIX

There are no related appeals or interferences. Therefore, there are no

decisions rendered by a court or the Board in any corresponding proceeding.

XI.   FEES

A Credit Card Payment Form is enclosed for the $540.00 filing fee for this

Brief in support of an appeal.

If any further fees are due in connection with the filing of this Appeal Brief,

including any Extension of Time fees that are necessary, the Commissioner is

hereby authorized to charge Deposit Account No. 50-1417.

Respectfully submitted,

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